



CRM-M-58173-2024

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(208) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-58173-2024
Date of Decision: 17.12.2024

PREM SINGH

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. B.S. Kathuria, Advocate
for the petitioner.

Mr. Harkanwar Jeet Singh, Asstt. A.G., Punjab.

JASJIT SINGH BEDI, J.

The prayer in this 4th petition under Section 439 Cr.P.C. is for the grant of regular bail in case bearing FIR No.60 dated 11.07.2021 registered under Sections 18, 29 of NDPS Act, 1985 at Police Station City-2 Abohar, District Fazilka.

2. The brief facts of the case are that while the police party was on patrolling duty, a car was seen coming from Hanumangarh, Rajasthan side and was stopped. On being asked, the driver disclosed his name as Gurjant Singh alias Janta son of Baldev Singh (granted bail vide order dated 20.05.2022 passed in CRM-M-20943-2022), the person sitting on the conductor seat disclosed his name as Varinder Singh alias Baga son of Sukhdev Singh (granted bail vide order dated 20.05.2022 passed in CRM-M-3193-2022), the person sitting on the back seat disclosed his name as Harshdeep Singh son of Shadarpal Singh (granted bail vide order dated

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21.04.2022 passed in CRM-M-7040-2022 as he had been declared innocent during the course of investigation) and the second person disclosed his name as Prem Singh (petitioner) son of Darshan Singh. The recovery of 3 Kgs opium came to be effected underneath of the driver seat of the car.

3. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. Three co-accused of the petitioner had been granted the concession of bail in view of the period of their incarceration as also violation of Section 42 of the NDPS Act. As the petitioner was in custody since 11.07.2021 but only 06 of the 10 prosecution witnesses had been examined so far, the Trial of the present case was not likely to be concluded anytime soon and therefore, he was entitled to the concession of bail.

4. A reply dated 16.12.2024 by way of an affidavit of Sukhwinder Singh Brar, PPS, Deputy Superintendent of Police, Sub Division Abohar, District Fazilka has been filed on behalf of the State by the learned counsel for the State. The same is taken on record. He contends that the petitioner was apprehended along with his co-accused and the recovery of 3 Kgs of opium came to be effected from the vehicle. Though, the co-accused had been granted the concession of bail, it was on account of the fact that they were first-time offenders and in the case of Harshdeep Singh, the Investigating Agency had found him to be innocent. The case of the petitioner was however different inasmuch as he was an accused in four other cases under the NDPS Act and thus, had a lengthy criminal record. Therefore, merely because of



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continued incarceration, he was not entitled to the concession of bail. Even otherwise, the instant petition was the 4th bail application of the petitioner, the last one having been withdrawn as recently as on 31.05.2024 (Annexure P-11).

5. I have heard the learned counsel for the parties.
6. This is the fourth bail application on behalf of the petitioner. The details of his earlier bail applications are as under:-

Sr. No.	Bail Application	Date of Decision
1.	CRM-M-32693-2022	Dismissed as withdrawn on 16.12.2022
2.	CRM-M-19727-2023	Dismissed as withdrawn on 12.02.2024
3.	CRM-M-26983-2024	Dismissed on withdrawn on 31.05.2024

7. The details of FIRs registered against the petitioner are as under:-

Sr. No.	FIR Nos. and date	Sections	Police Station
1.	FIR No.83 dated 18.06.1997	18 NDPS Act	Sirhali, District Tarn Taran
2.	FIR No.119 dated 05.09.2023	21 NDPS Act	Sirhali, District Tarn Taran
3.	FIR No.47 dated 05.09.2014	18, 21 NDPS Act, 25/54/59 Arms Act, 411, 414, 489(A), (B), (C) IPC, 3 Official Secret Act	Khemkaran, District Tarn Taran
4.	FIR No.62 dated 04.05.2019	21, 29 NDPS Act	Sirhali, District Tarn Taran

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8. Apparently, the petitioner is a serial offender with 04 other cases registered against him under the NDPS Act. No change in circumstances for grant of bail have been pointed out by the counsel for the petitioner after the 3rd bail application of the petitioner came to be argued and withdrawn as recently as on 31.05.2024 (Annexure P-11).

9. This Court in the case of **Soni Singh @ Chamkaur Singh Versus State of Punjab, CRM-M-31645-2022, decided on 20.10.2022**, held as under:-

“Admittedly, the petitioner in the present case is named in the disclosure statement of the arrested accused. Subsequently thereto 3Kgs of Poppy Husk was recovered at his instance which is a non commercial quantity. It may be relevant to mention here that limitations to the grant of bail under Section 37 of the NDPS Act are in addition to those prescribed under Cr.PC or any other law inforce on the grant of bail as has been set out by the Hon'ble Supreme Court in Satpal Singh Vs. State of Punjab 2018(5) RCR (Criminal) 152. In the present case, the petitioner is involved in two other cases under the NDPS Act. Thus, as he is a habitual offender, he is not entitled to the grant of bail even under Section 439 Cr.PC keeping in view his antecedents. Even otherwise, assuming that the rigors of Section 37 of the NDPS Act did not apply to the petitioner, that by itself would not ipso facto lead to the grant of bail to the petitioner.

In view of the above discussion, I find no merit in the present petition and the same is therefore dismissed.”

10. Keeping in view the allegations levelled against the petitioner as well as his antecedents, the satisfaction under Section 37 of the NDPS Act



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that he has not committed an offence and is not likely to commit one in the future cannot be recorded.

11. In view of the above discussion, I do not deem it appropriate to grant him the concession of bail and therefore, the present petition stands dismissed.

12. However, the Trial Court is directed to conclude the Trial as expeditiously as possible but in any case not later than 03 months from the next date of hearing fixed before it.

13. A copy of this order be sent to the Sr. Superintendent of Police, Fazilka who shall ensure that all the official PWs appear promptly before the Trial Court on the dates fixed for recording of prosecution evidence.

(JASJIT SINGH BEDI)
JUDGE

17.12.2024
JITESH

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No